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To: Microsoft ATR
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Subject: Microsoft Settlement

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I'm writing to express my reservations about the proposed settlement of the anti-trust case between the United States (as represented by the Justice department) and Microsoft Corporation. I speak as a concerned citizen with broad and significant computing experience. I've used computers in various capacities for over twenty years and have worked with half a dozen different operating system families, including the complete Microsoft family of products from MS-DOS to XP. I also have wide experience with many computer applications from both Microsoft and other parties. I have provided network and systems administration of Microsoft and Linux systems on a part-time basis and rely on secure and stable computing environments in my primary occupation as a research and development consultant to startup medical device companies.

The proposed settlement offers insufficient redress of Microsoft's previous wrongs and provides too little protection from this company's ongoing anti-competitive practices. While a just settlement should address Microsoft's past practices, I am more concerned that a settlement provide adequate protection to consumers, competitors, and indeed the economy as a whole, from Microsoft's ongoing and likely future anti-competitive practices.

With the release of it's latest, highly-integrated operating system product, XP, Microsoft has demonstrated that it has no intention of voluntarily curbing the sorts of predatory anti-competitive practices that have enabled it prosper at the expense of competitors and consumers alike. In my experience, succeeding generations of Microsoft operating system products have integrated increasing numbers of middleware applications, and the configuration tools needed to replace these applications with third party products have become more obscure and less effective, locking many consumers into a monolithic, Microsoft-only environment. The lack of choice implied by Microsoft's monolithic model of computing is contrary to the workings of free market enterprise and is ultimately harmful to consumers. It is apparent that this trend has the goal of maintaining and expanding Microsoft's dominant position in the desktop computing marketplace.

The unnecessarily tight integration of middleware applications into its operating system products is far from the only illegitimate tool that Microsoft has used to dominate the desktop market in the United States. Microsoft has plausibly been accused of: extorting exclusive installation of its products on computers by OEM manufacturers via differential pricing, of corrupting open software standards to gain exclusive access to important domains of computing, and waging so-called FUD (fear, uncertainty and doubt) campaigns against competitors and consumers. An appropriate settlement would address not only the particulars of continued forced, artificial integration of its products but as many of the other tools against free competition that Microsoft has been using as is possible.

It is bad public policy and poor economics to allow a single entity to maintain its position in the marketplace via unfair and illegal practices. Among the particular adverse effects of Microsoft's continued anti-competitive behavior are: stifled innovation, corruption of the marketplace, deterioration of the United State's position in the world's information technology economy and unnecessary security vulnerabilities.

Though Microsoft claims to be a leader in innovation, the record suggests that it is instead a follower (or perhaps a gatekeeper) of innovation. The Netscape saga illustrates this point. Microsoft failed to take the internet and its potential seriously until web's usefulness and the great value of effective browser technology were demonstrated by Netscape. Once Netscape was too successful to ignore, Microsoft used all of the anti-competitive tools at its disposal to neutralize Netscape. If Microsoft is allowed to escape effective punishment for this infraction, it will continue its current practices and will be a brake on rather than an engine of innovation. This result would be a loss for everyone, except perhaps Microsoft.

The stifling of innovation is just one of many symptoms of the market distortion created by Microsoft's all too effective use of anti-competitive tactics. There are a number of other ills created by this induced market failure, the most obvious of which are increased prices and lower product quality. Indeed, Microsoft has managed to defy the trends toward lower price and higher quality that typify all other aspects of the computer industry. As hardware has become ever more capable and less expensive, the cost of the software provided by Microsoft has remained high and improvements in quality have been slow and "grudging" at best. An overall effect of these opposing trends has been that Microsoft has been able to garner an increasing, and I would say, excessive fraction of every dollar spent on computers. Microsoft is richly rewarded by the market distortions that it has been able to engineer. It is time for these distortions to come to an end, and for the market to freely assert itself. Then the winners will be not only the consumers, who will get better quality at a lower price, but other hardware and software producers who will be able to command a more equitable share of the revenues from their products.

In the long run, Microsoft's illegitimate domination of the domestic information technology (IT) market threatens the United States' preeminent position in the international IT marketplace. Though Microsoft has a global reach, it is clear that its market power is neither as pervasive nor as potent as it is domestically. Because these overseas markets are less burdened by Microsoft's stifling anti-competitive practices, they can be more efficient and innovative. If this disparity is allowed to persist, it is likely that the United States will suffer an erosion of its now strong position in the world IT economy. The best way for the United States to prevent this deterioration is to open the domestic market to free and fair competition by preventing Microsoft from exerting its anti-competitive tools to distort the domestic IT market.

Microsoft has a history of using its market dominance to gloss over security problems with its products. Rather than act quickly to patch and publicize its security vulnerabilities, Microsoft uses all means at its disposal to suppress news of and information about its security problems. This "security through obscurity" approach is well known to be one of the worst possible responses to computer security problems; it leaves the computing community open to security problems for much longer than is necessary. It is typical for weeks or even months to pass between the discovery of a Microsoft security flaw and the company's issuance of a proper security patch. This poor security behavior is completely unacceptable in the face of

the heightened security concerns following the events of September 11. Though Microsoft has recently paid lip service to improving the security of its products, it has shown no inclination to replace its antiquated and dangerous security model with a more open, proactive and effective model. Indeed, its recently issued code of security ethics for Microsoft professionals calls for strict adherence to the security through obscurity model. This code dictates that these professionals' paying customers be kept in the dark regarding security vulnerabilities until such time as Microsoft deems it appropriate to reveal the problem. Microsoft's bad citizenship in regard to security is dangerous and should not be tolerated. A properly formulated settlement of the current case should include measures to force Microsoft to follow a more appropriate security model.

Microsoft's anti-competitive practices are not merely illegitimate and contrary to the principles of market capitalism and free enterprise, they greatly harm the American people in a significant number of concrete ways. The proposed settlement fails to address these ills in any meaningful sense. It needs to be reformulated to provide appropriate and strong protection of the market and the people from Microsoft's rapacious and counterproductive practices. A strong and effective settlement would not only serve the cause of justice, it would preserve an important sector of the United States' economy from unnecessary harm. It is imperative that the Justice department act in a wise and decisive manner and prevent Microsoft from continuing to isolate itself from market discipline via unfair and illegitimate means.

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